

MEMO ENDORSED

July 5, 2021

BY ECF

The Honorable Valerie E. Caproni
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *United States v. Velez et al.*, No. 19 Cr. 862 (VEC)
Client: Michael Gonzalez

Dear Judge Caproni:

I write at the behest of Mr. Gonzalez to withdraw his *pro se* request for a change-of-counsel hearing. Mr. Gonzalez informed me that he also sent a letter to this effect to the Court. In addition, I write to notify the Court that Mr. Gonzalez intends to request an adjournment of his sentencing hearing until the prospect of Congress's passage of the EQUAL Act is clearer. Should the Court assign new counsel, I will allow my replacement to discuss the EQUAL Act with Mr. Gonzalez and make the application on Mr. Gonzalez's behalf. Should I remain as Mr. Gonzalez's lawyer, I will make the request at Wednesday's hearing or shortly thereafter in writing should the hearing be adjourned.

According to Mr. Gonzalez, we are successfully working through our communication issues. Mr. Gonzalez has two main concerns that he is trying to resolve presentencing. First, he is attempting to have his BOP gang status changed from "active" to "inactive," which would be in line with the Probation Department's findings in the Presentence Report. Second, Mr. Gonzalez is **Redacted** According to Mr. Gonzalez, his frustration stems from the MDC's lack of urgency in addressing these concerns.

As to the EQUAL Act, based on 280 to 840 grams of crack cocaine, Mr. Gonzalez's Guidelines range is 130 to 162 months' imprisonment. The Eliminating a Quantifiably Unjust Application of the Law (EQUAL) Act currently in committee would reduce that range by at least four and one-half years. According to Rep. Hakeem Jeffries, who co-sponsored the bill in the House, "The [EQUAL Act] would eliminate the federal crack and powder cocaine sentencing disparity and retroactively apply it to those already convicted or sentenced." On June 22, the Department of Justice, in a statement to the Senate Judiciary Committee, threw its support behind the EQUAL Act. Because the EQUAL Act would make a significant impact on Mr. Gonzalez's sentencing range, he respectfully requests an adjournment until the fate of the EQUAL Act becomes clearer to avoid having to litigate a sentence reduction motion post-sentencing.

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Respectfully submitted,

/s/ Ezra Spilke
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cc: All counsel of record, by ECF
Michael Gonzalez, by U.S.P.S.

The hearing currently scheduled for Wednesday, July 7, 2021 at 2:00 P.M. will take place as scheduled. The Court will consider this information and Mr. Gonzalez's requests at the hearing.

SO ORDERED.

A handwritten signature in blue ink, appearing to read "Valerie Caproni", is written over a horizontal line.

Date: July 6, 2021

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE